City of Lafayette Staff Report

For:	City Council
By:	Niroop K. Srivatsa
Date Written:	February 19, 2008
Meeting Date:	February 25, 2008
Subject:	**Guidelines for conducting joint City Council, Planning Commission and Design Review Commission pre-application meetings**

Background

The matter was last heard by the City Council on January 28, 2008. The Council reviewed the letter submitted by the Lafayette Homeowners Council (LHC) and directed staff to make certain modifications to the guidelines. The minutes of the January 28th meeting are attached. Redlined and final versions of the guidelines are also provided for reference.

In section II of the Guidelines "When should these meetings be scheduled?" staff has deleted reference to projects outside the redevelopment project area. To retain Council's authority to schedule a meeting outside the RDA if needed, staff has added the following phrase "Unless otherwise determined by the City Council".

Recommendation

Adopt Resolution 2007-47 approving the guidelines.

Attachments

1. Resolution 2007-47
2. LHC letter dated January 17, 2008
3. Minutes of the January 28, 2008 City Council meeting

8B1

BEFORE THE CITY COUNCIL OF LAFAYETTE

In the Matter of:

Establishing Guidelines for Scheduling)
and Conducting Joint Meetings) Resolution 2007-47

Over the last few years, the City Council has convened joint pre-application meetings with the Planning and Design Review Commissions to consider upcoming development projects of a significant size. The purpose of these meetings is to provide early feedback to an applicant proposing a particularly challenging development, one that requires a general plan amendment, a development agreement or City subsidy.

On September 24, 2007, the relevancy and effectiveness of these pre-application meetings was discussed at the annual joint meeting of the three boards. At the direction of the City Council, staff drafted guidelines for scheduling and conducting joint meetings. These guidelines were considered by the Design Review Commission on October 9, 2007 and the Planning Commission on November 15, 2007. The Planning Commission recommended approval of the guidelines with modifications. The City Council considered the matter on November 28, 2007and January 28, 2008 and continued it to a future date to allow the Lafayette Homeowners Council to review the guidelines and provide comment.

NOW, THEREFORE, the City Council of the City of Lafayette resolves that:

The "Guidelines for Scheduling and Conducting Joint City Council, Planning Commission, and Design Review Commission Meetings" as modified by the Planning Commission are approved as reflected in Exhibit "A."

PASSED and ADOPTED by the City Council of the City of Lafayette at its regular meeting held on February 25, 2008 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Mayor

ATTEST:

_____
City Clerk

Exhibit A

Guidelines for Scheduling and Conducting Joint City Council, Planning Commission, and Design Review Commission Meetings

I. What is a joint project review meeting?
A joint meeting is a gathering of the City Council, the Planning Commission and the Design Review Commission and the public for the purpose of providing early feedback to an applicant seeking a particularly challenging development.

II. When should these meetings be scheduled?
Unless otherwise determined by the City Council, the Mayor or City Manager may schedule a joint meeting if:

1. A proposed development is located in the redevelopment project and the developer requires the City/Agency's review and involvement in one or more of the following ways:
    a. The developer seeks Agency subsidy
    b. A development agreement, owner participation agreement, disposition and development agreement, or other regulatory agreement (i.e. affordable housing) is proposed
    c. The development requires a general plan amendment, specific plan amendment and/or zone change.
2. A proposed development involves a public building or land.
3. A proposed development involves an historic building, or other features with high potential community value.

III. Who decides if they are to be held?
The City Council. The applicant should file a letter with the City Manager requesting a pre application joint meeting. The letter will be placed on the next available City Council agenda and the City Council will decide whether or not to hold a joint meeting.

IV. What materials should the applicant/developer provide in advance of the meeting?
At a minimum, submittal materials should include:

1. Data sheet describing the project – number of units, parking spaces, area of non residential spaces, maximum height, number of stories, proposed deviations from General Plan, Specific Plan, the Municipal Code, and any other applicable regulations
2. A context map showing the relationship of the proposed project to adjacent developments
3. Conceptual site plan(s) showing the location of buildings, accesses, dwelling units, parking, non-residential uses
4. Additional materials as requested by the City

The following additional materials can be presented at the joint meeting:

1. Building elevations with accurate representation of height
2. Site sections with accurate representation of height
3. Perspective views of the project

V. What materials should staff provide in advance of the meeting?
At a minimum, the staff report should include the following details:

1. Project Details
    a. Project location (w/map)
    b. Project description

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Deleted: <#>A proposed development is located outside the redevelopment project area and the developer requires the City's review and involvement in one or more of the following ways:¶
<#>A development agreement is proposed¶
<#>The development requires a general plan amendment, specific plan amendment, and/or zone change¶

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Deleted: Mayor, City Manager, or a committee of the City Council.¶

c. Description of requested amendments to the general plan, specific plan, Municipal Code, and any other applicable regulations
d. Description of public subsidy required or requested

2. Meeting Details
   a. Reason(s) for joint meeting
   b. Desired outcomes

The staff report should also make it clear that this initial, pre-application meeting is intended to provide the applicant only with general direction and that no binding decisions will be made on the development application itself. The City is in no way limited in future review of the application to the direction given to the applicant at the pre-application meeting and specifically reserves the right to deny the project or otherwise return it to the applicant for significant amendments, which may not have been previously mentioned at the pre-application meeting.

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VI. Who should be notified of the joint meeting?

At a minimum, notice of the joint meeting should be sent to the Lafayette Chamber of Commerce, the Lafayette Homeowners Council, other commissions that might have interest in the development, and any other individual or entity requesting notice. Additionally, property owners within 300' of the subject site should be notified in writing at least ten calendar days before the meeting.

VII. How should the meeting be run?

Staff will provide a detailed meeting agenda that:

1. Allocates adequate time for the developer's presentation, and questions and comments from each Board
2. Identifies areas/issues that require comment

The Mayor should:

1. Ensure that discussion is restricted to the agenda items only
2. Solicit public comment
3. Allow the DRC, then the PC members to comment before the City Councilmembers offer their input
4. Summarize the comments made and identify next steps
5. Make it clear and have the applicant acknowledge that this initial, pre-application meeting is only intended to provide the applicant with general direction and no decisions will be made on the development application itself and that the City is in no way bound or limited in future review of the application to the general direction given to the applicant at the pre-application meeting.

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The staff report should also make it clear that this initial, pre-application meeting is intended to provide the applicant only with general direction and that no binding decisions will be made on the development application itself. The City is in no way limited in future review of the application to the direction given to the applicant at the pre-application meeting and specifically reserves the right to deny the project or otherwise return it to the applicant for significant amendments, which may not have been previously mentioned at the pre-application meeting.

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LAFAYETTE HOMEOWNERS COUNCIL

649 Los Palos Drive
Lafayette, CA 94549

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January 17, 2008

Mike Anderson, Mayor
Lafayette City Council
City of Lafayette
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

Re: Draft Guidelines for Conducting Pre-application Meetings

Honorable Mayor Anderson and Members of the City Council:

The Lafayette Homeowners Council (LHC) appreciates the opportunity to comment on the Guidelines as submitted by City Staff for conducting joint City Council (CC), Planning Commission (PC) and Design Review Commission (DRC) pre-application meetings. Our recommendations are submitted below followed by our general comments on each recommendation.

We recommend:

1) The word "Public" be included in the first section [*What is a joint project review meeting*?] after DRC. Sometimes, the most important feedback early in the process comes from knowledgeable persons and/or those neighbors impacted by the proposed development;
2) Item 2, in its entirety, should be deleted under the second section [*When should these meetings be scheduled*?]. Joint CC, PC, and DRC pre-application meetings should be held only where there is a vested interest on behalf of the City, such as in the LRDA. The standard process of reviewing applications works quite well and should not be obviated in any way;
3) Item 4 under the second section should further define "*other features*" and define "*high community value.*" Is this value based upon aesthetic or high esteem reasons, or is it based upon financial considerations? And, who makes this decision?
4) In the third section [*Who decides if they are to be held?],* is it all three parties? We would suggest that the applicant via the City staff make a request of the CC and that the item then be placed on the City Council agenda and decided by the CC;
5) In the fourth section [*What materials should the applicant provide*...?], Item 4, "*Additional materials as requested by the City,*" we would suggest that information on all significant physical constraints be provided, as well as orientation of the project, service areas and landscaping, and impacts offsite such as viewing sites, noise, traffic, drainage, and so forth. Also, staff should take into consideration those significant CEQA requirements
that are impacted by the project, when requesting additional materials or data;
6) In the fifth section [*What materials should staff provide in advance of the meeting*?], the final paragraph may need edits. For example, the word "*only*" appears better placed after the word "*applicant*" in the first sentence of this paragraph;

7) In the sixth section [*Who should be notified of the joint meeting*?], in addition to the LHC and Chamber of Commerce, the standard noticing should take place for the public. It does not make any sense to exclude the public and, particularly, those nearby neighbors or businesses that may suffer the greatest impacts or enjoy the greatest benefits or may have valuable information to share with the CC, PC, and DRC. Also, the process is helped by giving people more advance warning (notice) of the meeting;
8) In the seventh section [*How should the meeting be run*?], we believe that a more informal roundtable discussion is beneficial. However, the public should be allowed and encouraged to participate. Again, historically, the public (local experts, neighbors, businesses, past commissioners) may help to educate the CC, PC, and DRC on a project more than any other resource. Also, in this section under Item 4, it would be helpful if the word "general" were to be inserted before the word "*direction*" in the last sentence.

Again, thank you for the opportunity to comment on these Guidelines.

Sincerely,

Guy Atwood

Guy Atwood, President
Lafayette Homeowners Council

Cc: Niroop Srivatsa, Planning Director

A. Niroop Srivatsa, Planning & Building Services Manager

1. Resolution 2007-047 adopting guidelines for conducting joint City Council, Planning Commission, and Design Review Commission pre-application meetings

Recommendation: Adopt Resolution 2007-047.

Planning and Building Services Manager Niroop Srivatsa said the Council last considered the matter in November and at the request of the Lafayette Homeowners Council (LHC) continued it to provide an opportunity to review the draft meeting rules. The LHC provided a letter asking for a few changes to the draft rules and staff has commented on this letter. Mayor Anderson confirmed the letter was dated January 17, 2008.

Ms. Srivatsa reviewed comments from the letter:

2. The word, "public" should be added to the type of meeting that the joint meeting will be, and staff agrees with this;

3. This deals with when this meeting should be scheduled. The recommendation of LHC is that the section talks about a proposed development being located outside the redevelopment project area, but one that may require a General Plan Amendment, a specific plan amendment and/or a zoning change be deleted in its entirety. Staff did not recommend that this be deleted as the Lafayette Park Terrace application is a project that lay outside the Redevelopment Agency. The Council held a joint meeting and lent some direction, which was important. Therefore, staff recommends that section not be deleted;

4. It is recommended that staff defines "other features" and define what "high community value" is. Staff can attempt to do this, but it ultimately is at the discretion of the Mayor, City Council and City Manager, but they would attempt to define this;

5. Rather than have only the Mayor or City Manager make a determination that a joint meeting be held, the entire Council should be given the opportunity to make that decision. Staff is open to this and can bring an item to the Council on the Consent Calendar to inform the Council there is a joint meeting being requested;

6. The LHC requests additional materials be requested by the applicant during the pre-application meeting which includes orientation of the project, service areas, landscaping, drainage, noise, traffic, and environmental requirements. Staff does not recommend that this be added, as this is a pre-application meeting and the applicant does not always have all of this information. Staff also does not want to turn this into an application prior to a formal one being filed. The purpose is only to lend general direction;

7. The LHC recommends staff re-draft the paragraph to emphasize that the direction provided to the applicant is general direction only and staff will make sure this point is made;

8. Regarding who should be notified of the meeting, the LHC recommends staff notify people within 300 feet, and additionally to the LHC, the Chambers of Commerce, and

any interested parties. Staff can do this and does it on occasion for study sessions that go to the DRC;

9. Regarding how the meeting should be run, it is suggested that the public be encouraged to participate. Staff agrees with this and will make an addition to that section to add that there will be opportunity for public comment. Staff also agrees that general direction must be emphasized again.

PUBLIC COMMENTS:

LYNN HIDEN said the LHC asks that the Council remove the applicability of such meetings when an application is soon to be pending in a non-redevelopment area. She sees no need for it to happen in single family residential areas and would rather the application go through normal process. Secondly, she asked to ensure public noticing in accordance with regular city-noticed hearing procedures. To date, such meetings have been narrowly noticed and without solicitation from resident input. She said there appears to be situations where there have been efforts to intimidate neighborhoods by telling them that staff liked the project and said it would pass, or that it was a slam dunk. All of them have been called with reports like this and to them this is what developers are telling the populous. She said if the pre-application meetings include proper noticing, residents will see the applications are non-binding, without promises, and residents can provide valuable input, and she thought this could make a big difference in the outcome.

Councilmember Andersson said Ms. Hiden makes the distinction between potential applications that may be in the redevelopment area versus outside of the redevelopment area, but he her real distinction was between the single family areas and other areas, and Ms. Hiden agreed. He therefore asked to limit it not to the redevelopment area but to non-single family zoned areas.

Ms. Hiden said as far as she could determine, the best thing would be to remove single family residential and just let it go through the process. There may be details to work out preliminarily in the redevelopment area, but she does not feel this is necessary for the single family residential areas.

GUY ATWOOD said it appears staff has said they are open to 6 of the 8 items, and the only 2 items they seem to be opposed to would be the wording in item 5 and 2 of their letter. He said Item 5 might be resolved by making those words as part of materials that could be requested by the City if it applies. He said the wording came from one of the Planning Commissioners and he thought it might make sense to provide this type of information if it is appropriate. Regarding item 2, he thought this was the most significant item. Staff used the Lafayette Park Terrace example which he thought is the worst example because it is one where the applicant came in, steamrolled the Planning Commission, and he thought this is the sort of thing they do not want to see. In situations where people go into single family residential areas and try to rezone them in certain ways where they have a significant impact, once the City enters into discussions with the applicant regarding development conditions and other things, applicants feel the City is in support of something like that. So, unless the City has a vested interest like the RDA or public buildings and/or large open space, then he thinks it does not make sense to go in and pre-empt the whole planning process. He encouraged the Council to eliminate the single family residential area from this and said the RDA basically does this as being the commercial area.

Councilmember Andersson confirmed that Mr. Atwood's concern is that it not apply to the single family residential areas.

GEORGE BURTT said he came to support the LHC and also the Acalanes Homeowners Association, and asked that public participation occur from residential neighborhoods.

Mayor Anderson requested Ms. Srivatsa address Item 5, and said he got the sense that adding words that would simply indicate some of these other analyses could or may be required would be satisfactory, and he asked if this would work for staff.

Ms. Srivatsa said it would, but she cautioned that the meeting is a pre-application meeting. The more it starts to look like a formal application, the more staff runs into noticing and other legal issues. The developer is presenting a concept and staff needs enough materials so the concept is apparent and can be critiqued, and anything more would start to look like an application. She said staff would need to follow certain noticing standards and statutory deadlines, staff would formally deem an application complete and if staff accepts materials and call it an application, they start to run into CEQA deadlines and other statutory deadlines and the application might be wholly inadequate at that point. She stressed the need for a distinction between pre-application submittals and what is formally required during an application.

Vice Mayor Tatzin questioned whether or not concerns would be triggered if the Council puts in something that says the developer may choose to provide other information that would provide a more thorough view of the project. Ms. Srivatsa said no, it would not, but it should be at the developer's option.

Councilmember Federighi said she disagrees and believes additional materials as requested by the City would allow some flexibility in terms of what the project is all about before a joint meeting is held. Vice Mayor Tatzin suggested putting in some of the other ideas under as, "can be presented" and Councilmember Federighi agreed with this.

Ms. Srivatsa said in trying to separate an application from a pre-application, she would not list all of the items; just add, "additional data that might further clarify the concept may be provided by the developer'.

Mayor Anderson referred to Item 2 in the LHC letter. His sense is that the Council is talking about not having a pre-application process in the single family residential zoning areas, and he asked if staff had an issue with this. Ms. Srivatsa said staff does not see an issue with that, but she suggested that with the Lafayette Park Terrace example, that property is zoned SFR and the applicant wanted to rezone it for a higher density. It therefore came to the Council for a pre-application meeting. If pre-applications are eliminated in the single family zoning district, the City would be eliminating that opportunity.

Councilmember Federighi referred to Item 4 and said the LHC wants the City to further define "other features" and "high community value" but she was not sure this was necessary. She said the main point she definitely agrees with is that it is important for the public to have an opportunity to weigh in; that the public might see something that really bothers them and where they will be affected.

Mayor Anderson said what he is hearing is that the Council can give direction to staff to have the item continued and return; that the Council would like wording that reflects the concerns from LHC letter for Items 1, 4, 5, 6, 7 and 8 incorporated into the language; and that the Council was amenable to exempting the single family residential zoning from the pre-application process.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item to February 25, 2008; direct staff to make revisions by taking the current exhibit and amending it with LHC comments; to modify Item 2 to not allow the pre-application process for single family residential; for Item 3 to not to be further defined, and to address Items 4-8 of the LHC letter per the discussion by staff. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).